



## 2016 LOCAL OFFICIALS DAY COMMITTEE HEARING ROLE-PLAY

At the 2016 Local Officials Day, ULCT will host a mock state committee hearing for city youth councils at the State Capitol from 8:00 to 10:30 am on January 27. We expect the mock committee meetings to provide the youth councils with a perspective of a “day in the life” of a state legislator. The meetings will demonstrate part of the legislative process and empower the youth to debate a relevant topic. The mock state committee will debate *HB 7375: Law Enforcement and Their Use of Body Cameras*. We anticipate legislators or police chiefs will visit the hearings and interact with the youth councils.

### MOCK STATE COMMITTEE HEARING PROCEDURE

We usually have 500+ youth council members that attend Local Officials Day. We are doing a 2 track system this year so as to involve more of your councils, decrease the number of kids in each room, and eliminate the need for a debate in the Hall of Governors (capitol 1<sup>st</sup> floor). The first group will debate for approximately 1 hour while the other group meets with their local leaders and legislators or to tour the Capitol (this will need to be set up by you and your group on your own). After the first hour the groups will then switch places, allowing the second group to mock debate and the first group to meet with local leaders, legislators, or tour the Capitol. The 2 groups will be divided into 2 sections of about 150 youth council members and assigned to a room for the mock committee hearing. Each mock hearing will focus on the same legislation. The youth committee will sit at the committee table while the rest of the youth will be in the audience. We need approximately 60 youth council volunteers (about 15 per hearing) to successfully execute the role-play. The following times are estimates. PLEASE VOLUNTEER!

- ULCT staff explains the process: 2 min
- Committee chairperson (youth council volunteer) calls meeting to order, explains procedure, sets 3 min time limits on speakers: 2 min
- Prepared testimony in support of bill & Amendment 1: 7 min (3 pre-arranged volunteers)
- Prepared testimony in opposition to bill & Amendment 1: 3 min (1 pre-arranged volunteer)
- Public comment & committee debate about Amendment 1: 8 min
- Committee members vote one-by-one on Amendment 1 & explain vote: 2 min
- Prepared testimony in support of and opposition to Amendment 2: 15 min (6 pre-arranged volunteers)
- Public comment & committee debate on Amendment 2 & the bill: 20 min
- Committee members vote one-by-one on Amendment 2 & explain vote: 3 min
- Committee members cast final votes on bill & explain vote: 3 min
- Committee chairperson announces whether or not bill passes and adjourns the meeting

### **HB 7375: Law Enforcement and Their Use of Body Cameras**

#### **PART I**

##### **77-7z-102z: Definitions**

*“Body-worn camera:” a portable video recording device worn by an officer that records the officer’s acts.*

*“Public record” is a record that is not classified as a private or protected record and can be disclosed*

#### **PART II**

### **77-7z-103z: Policies and procedures**

*(1) Any law enforcement agency with body-worn cameras shall at a minimum use the following policy:*

*(a) Cameras shall be worn conspicuously by an officer whenever possible*

*(b) Cameras shall be activated during the following types of encounters between the public and the officer:*

*i. All enforcement and investigative contacts (including interviews, warrants, use of force)*

*ii. Traffic stops*

*iii. Any other contact that becomes adversarial*

### **PART III**

### **63G-2-201z: Government Records and Management Act**

*(1) All body-worn camera recordings are public and must be disclosed to the public upon request, except for the following body-worn camera data that would be private (a-g) or protected (h):*

*a) Audio, video, or other data captured by a body-worn camera that contains:*

*b) Personally identifiable images or information*

*c) Medical information*

*d) Data from the interior of a private residence*

*e) Data from school buildings or school property*

*f) Data from areas in public buildings or public places that are not accessible to the general public*

*g) Data that a reasonable person would expect to be private*

*h) Data collected for a law enforcement purpose (protected)*

*(2) Private and protected recordings may be released to a third party only when the public interest outweighs the privacy interest.*

*(3) All recordings shall be retained for no less than 30 days and can then be destroyed*

*AMENDMENT 1: add in Part I "POST is the Division of Peace Officer Standards and Training," delete Part II and replace with "Any law enforcement agency with body-worn cameras shall at a minimum use the policy adopted by POST," and then move Part II(a) & (b) to a POST model policy*

### **AMENDMENT 2:**

In Part II, add (c) which would say:

*"When a law enforcement officer with a body-worn camera enters a private residence, the officer shall give notice to the occupants that the camera is in use & comply with requests to turn the camera off"*

And delete Part III and replace with:

*(1) A body-worn camera recording is a public record.*

*(2) All recordings shall be retained before they can be destroyed:*

*i) at a minimum for not less than 9 months in all cases (consistent with license plate readers), or*

*ii) at least as long as the statute of limitations for any criminal charge that may arise from evidence obtained from the recording*

*(3) A government entity must release a body-worn camera recording to a third party (such as a journalist, defense attorney, or private citizen) upon request.*

## **BACKGROUND INFORMATION**

**A) There are some fundamental questions that this committee and local youth officials must ask:**

1) Why do we want law enforcement officers to wear body-worn cameras?

2) Is the camera to monitor police officer conduct, aid a police officer in the investigation, or both?

- 3) What is the balance between the public interest in knowing what happened and the privacy of the individuals in the recording?
- 4) Is the financial cost worth it to society to invest in body-worn cameras?

#### **B) What other states are doing**

[http://www.ncsl.org/research/civil-and-criminal-justice/law-enforcement.aspx#Police use of body-cameras](http://www.ncsl.org/research/civil-and-criminal-justice/law-enforcement.aspx#Police%20use%20of%20body-worn%20cameras)

<http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>

- 19 states have body-worn camera laws
- 8 states have addressed public access to body-worn camera recordings
- 37 states considered legislation in 2015 (including Utah)
- Oklahoma 2015 law: all body-worn camera recordings are public though the agency can redact footage of nudity, minors, bodily injury, medical info, & personal info. Agencies may not redact footage that shows an officer pursuing someone, using force, or causing injury or death
- North Dakota 2015 law: An image taken by a law enforcement officer with a body camera and which is taken in a private place is an exempt record (note: "private place" is undefined)

#### **C) Cost of body-worn cameras and storage**

[http://www.hendonpub.com/law\\_and\\_order/articles/2015/07/the\\_costs\\_and\\_benefits\\_of\\_body\\_worn\\_cameras](http://www.hendonpub.com/law_and_order/articles/2015/07/the_costs_and_benefits_of_body_worn_cameras)

Rule: the longer an agency must store footage, the more expensive the body-worn camera policy will be.  
 Duluth, MN (86,000 pop.): 110 cameras, 10,000 videos/month, keep for at least 30 days = \$28,000/yr  
 Wichita, KS (388,000 pop.): 440 cameras, docking stations, IT, employees to track footage = \$350,112/yr

#### **D) Utah body-worn camera status quo**

- At least 44 law enforcement agencies in Utah currently use some body-worn cameras
- State law is silent about usage, activation, or public access to body-worn camera footage
- State law shows how the public can access other types of law enforcement records
- As this is new technology, agencies with cameras report a technology fail rate ranging from 5-80% and report that battery life is insufficient to record entire police shifts

#### **E) Utah Government Records Access & Management Act (GRAMA; for more on the types of records & process to access records, see Utah Code 63G-2-1 at [www.le.utah.gov](http://www.le.utah.gov)):**

- Every person has the right to a copy of a *public record* (for a reasonable cost)
- Governmental entity shall disclose a *private or protected record* to:
  - a) The subject of the record
  - b) The parent of legal guardian of the minor who is the subject of the record
  - c) Any person to whom the record must be provided pursuant to a court order
- Process for obtaining a public, private, or protected record:
  - i) Written request to city (city must respond in 10 days)
  - ii) Expedited response: a journalist can request a faster response if he/she demonstrates that the record request benefits the public rather than the individual requester
  - iii) If the city denies the request, the requester has 30 days to appeal to the city manager or local appeals board and then 30 days to appeal to the State Records Committee

**STANDARD TO DETERMINE WHETHER A GOVERNMENTAL ENTITY MAY DISCLOSE A PRIVATE RECORD:**  
**"Interests favoring access are greater than or equal to the interest favoring restriction of access"**

Utah Supreme Court: “the presumption has always been in favor of public access, subject only to specific statutory restrictions, personal privacy rights, and countervailing public policy”

**F) Other law enforcement records in Utah (some with retention schedules, some without; see <http://archives.utah.gov/opengovernment/index.html>)**

- Public:
  - Police in-car video recordings (retain for 3 months)
  - Questionable cases 911 dispatch recordings (retain for 2 years)
  - Names of victims
- Protected:
  - License plate data from an automatic license plate reader (destroy after 9 months)
  - Agency can restrict access to investigatory records if the disclosure could interfere with the investigation or deprive a person of a fair trial
- Private:
  - Arrest reports (retain for 5 years)
  - Records about someone’s medical history, condition, or treatment